

## To Whom It May Concern:

Section 196.1003 RSMo, requires tobacco product manufacturers which have not signed the Master Settlement Agreement (non-participating manufacturers or “NPMs”) which sell cigarettes (including roll-your-own) in Missouri (whether directly or through a distributor, retailer or similar intermediary or intermediaries) to do the following:

- Establish a qualified escrow account in a United States federally or state chartered financial institution (Institution) by April 15<sup>th</sup> following the year in which sales are made (directly or through a distributor, retailer, or similar intermediary or intermediaries) into Missouri. Your company may choose the Institution. However, the following conditions must be met: (1) The Institution may not be affiliated with a tobacco product manufacturer and must have assets of at least \$1,000,000,000. (2) The escrow arrangement must require that the Institution hold the escrow funds’ principal for the benefit of the state of Missouri and other releasing parties, as the term is defined in the Master Settlement Agreement. (3) The escrow arrangement must also state that your company is prohibited from using, accessing or directing the use of the funds’ principal inconsistently with Section 196.1000 – 196.1003 RSMo, as amended. Your company may receive interest and other appreciation on the escrow funds as earned; however, the fund principal may only be released under the circumstances provided in the law.
- Certify in writing to the Missouri Attorney General by April 15<sup>th</sup> that a qualified escrow account was established and provide a copy of the escrow agreement signed by your company and the Institution.
- Deposit into the escrow fund by April 15<sup>th</sup> of the year following the year in which the calculation was made, an amount equal to the following:

\$ .0094241 per unit sold after July 1, 1999 (effective date of the Act) plus inflation of 3%;

For 2000: \$.0104712 plus inflation of 6.48841% per unit sold;

For 2001: \$.0136125 plus inflation of 9.68306 % per unit sold;

For 2002: \$.0136125 plus inflation of 12.97355% per unit sold;

For 2003: \$.0167539 plus inflation of 16.36276% per unit sold; and,

**For 2004 sales year: \$.0167539 plus inflation of 20.15102% per unit sold, for a total of \$.0201300 per unit sold.**

- “Units sold” means the number of individual cigarettes “including the amount of roll-your-own” (cigarette tobacco, based on .09 ounces of “roll-your-own” tobacco constituting one cigarette), your company sold in Missouri, whether directly or through a distributor, retailer or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on cigarette packs or “roll-your-own” tobacco containers.

- Certify to the Missouri Attorney General by April 15<sup>th</sup> of each year the number of units sold in Missouri and the amount deposited to the escrow account. In addition to the certification form, the deposit must be evidenced by proof of deposit from the Institution.

Under Missouri law, Section 196.1000 – 196.1003, RSMo, failure to comply with the law may result in serious civil penalties, in an amount not to exceed 15% of the amount improperly withheld from escrow per day (up to 300% of the original amount improperly withheld) for a first knowing violation, and prohibition of direct or indirect sales to consumers within the state for up to two years for a second knowing violation. Violators are also responsible for the state's costs and attorney's fees in a successful prosecution. Moreover, sales of noncompliant product are subject to seizure and forfeiture pursuant to Section 149.203, RSMo, and related statutes, and constitute an unfair trade practice subject to all of the penalties provided for in the Missouri Merchandising Practices Act.

If you have any questions, please contact Assistant Attorney General Greg Barnes at 573-751-3321 or me at 573-751-7163.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joel M. Allison', with a stylized flourish at the end.

Joel M. Allison  
Manager  
Excise Taxes